



REPUBLIC OF KENYA

ELEVENTH PARLIAMENT – FOURTH SESSION

NATIONAL ASSEMBLY

VOTES AND PROCEEDINGS

WEDNESDAY, NOVEMBER 23, 2016

1. The House assembled at thirty minutes past Two O'clock
2. The Proceedings were opened with Prayer
3. **Presiding** – the Deputy Speaker
4. **PETITIONS**

The following Members presented Petitions –

- (i) the Member for Nandi Hills (Hon. Alfred Keter) regarding renewal of land leases in Nandi County; and,
- (ii) the Nominated Member (Hon. Sunjeev Birdi) regarding alleged negligence by Our Lady of Mercy Secondary School;

Petitions referred to the relevant Departmental Committees pursuant to Standing Order 227(1).

5. **PAPERS LAID**

The following Papers were laid on the Table –

- (a) The Reports of the Auditor-General on the Financial Statements in respect of the –
 - (i) IDB Capital Limited;
 - (ii) Commodities Fund;
 - (iii) Kabarnet Hotel Limited; and
 - (iv) Murang'a University College.

(The Leader of the Majority Party)

- (b) The Reports of the Public Investments Committee on –

- (i) Inspection Visit of Phase I of the Standard Gauge Railway (Mombasa – Nairobi Line) undertaken between 16th – 18th June, 2016 and Implementation Status of Phase I and II of the Standard Gauge Railway; and
- (ii) Inquiry into allegations of Procurement Irregularities in the award of the Kenya Bureau of Standards Tender No. Kebs/T057/2014 for the Provision of Pre-Export Inspection Services for used Motor Vehicles.

(Chairperson, Public Investments Committee)

- (c) The Report of the Departmental Committee on Justice and Legal Affairs on its Consideration of the Contempt of Court Bill, 2016.

(Chairperson, Departmental Committee on Justice and Legal Affairs)

- (d) The Reports of The Joint Committee on National Cohesion and Equal Opportunity on–
 - i. The Fact-Finding Visit to Samburu, Baringo, West-Pokot and Turkana Counties;
 - ii. The Visit to Australia and New Zealand from 9th - 25th October 2015;
 - iii. The Visit to Northern Ireland and the UK Between 5th and 12th December 2015;
 - iv. The Workshop on Operationalization of the Equalization Fund with various Government Institutions and Stakeholders at Whitesands Hotel, Mombasa held from 12th – 15th May 2016; and
 - v. The 14th Session of the Convention on Rights of People with Disability Conference held on 18th -19th August 2015 in Geneva, Switzerland.

(Chairperson, Joint Committee National Cohesion and Equal Opportunity)

6. NOTICES OF MOTION

The following Notices were given –

- (i) THAT, this House adopts the Report of the Public Investments Committee on the inspection Visit of Phase I of the Standard Gauge Railway (Mombasa – Nairobi Line) undertaken between 16th – 18th June, 2016 and Implementation Status of Phase I and II of the Standard Gauge Railway, laid on the Table of the House today, Wednesday, November 23, 2016; and
- (ii) THAT, this House adopts the Report of the Public Investments Committee on the Inquiry into allegations of Procurement Irregularities in the award of the Kenya Bureau of Standards Tender No. Kebs/T057/2014 for the Provision of Pre-Export Inspection Services for used Motor Vehicles, laid on the Table of the House today, Wednesday, November 23, 2016.

7. STATEMENT

The Chairperson, Chairperson, Joint Committee National Cohesion and Equal Opportunity apprised the House on the status of business pending before the Committee.

8. **MOTION -REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PRESIDENT'S RESERVATIONS TO THE ENERGY BILL (NATIONAL ASSEMBLY BILL NO. 50 OF 2015)**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the President's Reservations to the Energy Bill (National Assembly Bill No. 50 of 2015)

(The Leader of the Majority Party)

Question put and agreed to.

9. **MOTION – REPORT OF THE COMMITTEE OF THE WHOLE HOUSE ON THE PRESIDENT'S RESERVATIONS TO THE PETROLEUM (EXPLORATION, DEVELOPMENT AND PRODUCTION) BILL (NATIONAL ASSEMBLY BILL NO.44 OF 2015)**

Motion made and Question proposed –

THAT, this House do agree with the Report of the Committee of the Whole House on its consideration of the President's Reservations to the Petroleum (Exploration, Development and Production) Bill (National Assembly Bill No. 44 of 2015)

(The Leader of Majority Party Party)

Question put and agreed to.

10. **MOTION- THE HEALTH BILL (NATIONAL ASSEMBLY BILL NO.14 OF 2015)**

Motion made and Question proposed –

THAT, the Senate Amendments to the Health Bill (National Assembly Bill No.14 of 2015) be now considered.

(Chairperson, Departmental Committee on Health – 22.11.2016)

Debate on the Motion having been concluded on Tuesday, November 22, 2016;

Question put and agreed to.

11. **THE ELECTION LAWS (AMENDMENT) (No. 3) BILL (NATIONAL ASSEMBLY BILL NO. 63 OF 2015)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Election Laws (Amendment) (No. 3) Bill (National Assembly Bill No. 63 of 2015) be now read a Second Time

(Chairperson, Departmental Committee on Justice and Legal Affairs - 04.05.2016)

Debate on the Motion having been concluded on Tuesday, November 22, 2016;

Mover replied;

Question put and agreed to.

Bill read a Second Time and committed to the Committee of the whole House tomorrow.

12. COMMITTEE OF THE WHOLE HOUSE

Order for Committee read;

IN THE COMMITTEE

The First Chairperson in the Chair

(i) The Insurance (Amendment) Bill (National Assembly Bill No. 28 of 2016)

Order deferred

(ii) Senate's Amendments to the Health Bill (National Assembly Bill No.14 of 2015)

CLAUSE 2

Senate Amendments

THAT clause 2 of the Bill be amended by-

(a) deleting the interpretation of the word "abortion"; and

(b) inserting the following new definition in the proper alphabetical sequence-

"death" means the permanent loss of capacity for consciousness and the loss of all brainstem functions;

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Senate amendment to Clause 2 - agreed to.

CLAUSE 5

Senate Amendments

THAT clause 5 of the Bill be amended by inserting the following new subsections immediately after subsection (2) —

(3) The national and county governments shall ensure the provision of free and compulsory

— (a) vaccination for children under five years of age; and

(b) maternity care.

(4) For the purposes of implementing subsection (3), the national government shall in consultation with the respective county government provide conditional grants to county governments.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negative;

Senate amendment to Clause 5 - negatived

CLAUSE 7

Senate Amendments

THAT clause 7 of the Bill be amended by deleting sub-clause (3).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate amendment to Clause 7 - agreed to

CLAUSE 12

Senate Amendments

THAT clause 12(1) of the Bill be amended in paragraph (a) by deleting the words "theirhealth status" appearing immediately after the words "on account of" and substitutingtherefor the words "any of the grounds set out in Article 27(4) of the Constitution".

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to;

Senate amendment to Clause 12 - agreed to

CLAUSE 15

Senate Amendments

THAT clause 15 of the Bill be amended in sub-clause (1) by –

- (a) inserting the words "including reproductive health care and the right to emergency treatment" at the end of paragraph (a);
- (b) deleting paragraph (c);

(c) deleting the words "and implement" appearing after the word "develop" and substituting therefor the word "policy" in paragraph (f); and

(d) inserting the word "policy" immediately after the words "put in place" in paragraph (i).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 15 - negatived

CLAUSE 16

Senate Amendments

THAT clause 16 of the Bill be amended —

(a) by deleting sub-clause (2) and substituting therefor the following new sub-clause-

(2) The Director-General for health shall be recruited by the Public Service Commission through a competitive process and appointed by the Cabinet Secretary.

(b) in subsection (3) by deleting paragraph (a) and substituting therefor the following new paragraph —

(a) be a health practitioner registered by the respective regulatory body;

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 16 - negatived

CLAUSE 17

Senate Amendments

THAT clause 17 of the Bill be amended by —

(a) deleting paragraph (i); and

(b) deleting paragraph (j).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 17 - negatived

CLAUSE 18

Senate Amendments

THAT clause 18 of the Bill be deleted and substituted with the following new clause-

18. For purposes of section 15(1)(b), the Cabinet Secretary shall-

(a) form directorates to deal with the following matters -

- (i) medical services;
- (ii) nursing and allied workers;
- (iii) pharmaceutical services;
- (iv) public health; and
- (v) administrative services;

(b) notwithstanding paragraph (a), form directorates based on policy priority areas in consultation with the Director-General.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 18 - negatived

CLAUSE 19

Senate Amendments

THAT clause 19 of the Bill be amended in sub-clause (4) by deleting paragraph (a) and substituting therefor the following new paragraph —

(a) be a health practitioner registered by the respective regulatory body;

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 19 - negatived

CLAUSE 20

Senate Amendments

THAT clause 20 of the Bill be amended by-

(a) deleting the introductory phrase and substituting therefor the following new Phrase-
the county government in furtherance of the functions assigned to it under the Fourth Schedule of the Constitution shall be responsible for-

(b) deleting the marginal note and inserting therefor the following new marginal note-
duties of county government.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 20 - negatived

CLAUSE 24

Senate Amendments

THAT clause 24 of the Bill be amended by deleting paragraph (a).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 24 - negatived

CLAUSE 25

Senate Amendments

THAT clause 25 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 25 - negatived

CLAUSE 27

Senate Amendments

THAT clause 27(1) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b) —

(c) be a platform for mutual consultation, coordination and collaboration between the national and county governments on all matters related to health.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Senate amendment to Clause 27 - agreed to

CLAUSE 28

Senate Amendments

THAT clause 28 of the Bill be amended by deleting sub-clause (2).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Senate amendment to Clause 28 - agreed to

CLAUSE 30

Senate Amendments

THAT clause 30 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 30 - negatived

CLAUSE 31

Senate Amendments

THAT clause 31 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 31 - negatived

CLAUSE 32

Senate Amendments

THAT clause 32 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 32 - negatived

CLAUSE 33

Senate Amendments

THAT clause 33 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 33 - negatived

CLAUSE 34

Senate Amendments

THAT clause 34 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 34 - negatived

CLAUSE 35

Senate Amendments

THAT clause 35 of the Bill be deleted.

(Dr. Robert Pukose)

Debate arising;

Question put and negatived.

Senate amendment to Clause 35 - negatived

CLAUSE 36
Senate Amendments

THAT clause 36 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 36 - negatived

CLAUSE 37
Senate Amendments

THAT clause 37 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 37 - negatived

CLAUSE 38
Senate Amendments

THAT clause 38 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 38 - negatived

CLAUSE 39

Senate Amendments

THAT clause 39 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 39 - negatived

CLAUSE 40

Senate Amendments

THAT clause 40 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 40 - negatived

CLAUSE 41

Senate Amendments

THAT clause 41 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 41 - negatived

CLAUSE 42

Senate Amendments

THAT clause 42 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 42 - negatived

CLAUSE 43

Senate Amendments

THAT clause 43 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 43 - negative

CLAUSE 44

Senate Amendments

THAT clause 44 of the Bill be deleted.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 44 - negatived

CLAUSE 46

Senate Amendments

THAT clause 46 of the Bill be amended by-

- (a) deleting sub-clause (1f); and
- (b) deleting sub-clause (4).

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 46 - negatived

CLAUSE 49**Senate Amendments**

THAT clause 49 of the Bill be amended in subsection (2) by deleting paragraph (a) and substituting therefor the following new paragraph —

(a) is a health practitioner registered by the respective regulatory body;

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and agreed to.

Senate amendment to Clause 49 - agreed to

CLAUSE 62**Senate Amendments**

THAT the Bill be amended by deleting clause 62.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 62 - negatived

CLAUSE 63**Senate Amendments**

THAT the Bill be amended by deleting clause 63.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 63 - negatived

CLAUSE 64**Senate Amendments**

THAT the Bill be amended by deleting clause 64

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 64 - negatived

CLAUSE 65

Senate Amendments

THAT the Bill be amended by deleting clause 65.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 65 - negatived

CLAUSE 66

Senate Amendments

THAT the Bill be amended by deleting clause 66.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 66 - negatived

CLAUSE 67

Senate Amendments

THAT the Bill be amended by deleting clause 67.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 67 - negatived

CLAUSE 73

Senate Amendments

THAT the Bill be amended by deleting clause 73.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 73 - negatived

CLAUSE 89

Senate Amendments

THAT the Bill be amended by deleting clause 89.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 89 - negatived

CLAUSE 91

Senate Amendments

THAT the Bill be amended by deleting clause 91.

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to Clause 91 - negatived

THE FIRST SCHEDULE

Senate Amendments

THAT the First Schedule be amended —

(a) in the row titled Level 1: Community Health Services, by deleting the Note appearing immediately after paragraph (d) and substituting therefor the following new Note —

Note: The In-charge is a qualified health practitioner registered by the respective regulatory body.

(b) in the row titled Level 3: Health Centre, by deleting the Note appearing immediately after paragraph (f) and substituting therefor the following new Note —

Note: The In-charge is a nurse, a clinical officer or a medical officer. The In charge shall have at least two years work experience in a management position.

(c) in the row titled Level 4: Primary Hospital by—

- i) deleting the title “Level 4: Primary Hospital” and substituting therefor the title “Level 4: County Referral Hospital”;
- ii) deleting the Note appearing immediately after paragraph (I) and substituting therefor the following new Note –

Note: The In-charge is a qualified health practitioner registered by the respective regulatory body”;

(c) in the row titled Level 5: Secondary Hospital by—

- i) deleting the title “Level 5: Secondary Hospital” and substituting therefor the title “Level 5: Regional Referral Hospital”;
- ii) deleting the Note appearing immediately after paragraph (c) and substituting therefor the following new Note –

Note: The In-charge shall be qualified for appointment if that person–

(a) is a qualified health practitioner registered by the respective regulatory body;

(b) holds a Masters degree in a health related field from a university recognized in Kenya;

(c) has a post graduate qualification in management; and

(d) has at least five yearswork experience in a management position.

(e) in the row titled Level 6: Tertiary Hospital by—

i) deleting the title “Level 6: Tertiary Hospital” and substituting therefor the title “Level 6: National Referral Hospital”;

ii) deleting the Note appearing immediately after paragraph (b) and substituting therefor the following new Note –

Note: The In-charge shall be qualified for appointment if that person–

(a) is a qualified health practitioner registered by the respective regulatory body;

(b) holds a Masters degree in a health related field from a university recognized in Kenya;

(c) has a post graduate qualification in management; and

(d) has knowledge and at least ten years work experience in a senior management position.

(The Chairperson, Departmental Committee on Health)

(Dr. Robert Pukose)

Question of the amendment proposed;

Debate arising;

Question put and negatived.

Senate amendment to the First Schedule- negatived

Senate amendment to be reported with amendments

13. **HOUSE RESUMED** - the Second Chairperson in the Chair

Senate's Amendments to the Health Bill (National Assembly Bill No.14 of 2015)

Senate amendment reported with amendments;

Motion made and Question proposed –

THAT, the House do agree with the Committee in the said report

(Dr. Robert Pukose)

Question deferred to another day

14. **THE PENAL CODE (AMENDMENT) BILL NATIONAL ASSEMBLY BILL NO.13 OF 2016)**

Order for Second Reading read;

Motion made and Question proposed –

THAT, the Penal Code (Amendment) Bill (National Assembly Bill No.13 of 2016) be now read a Second Time

(Chairperson, Joint Committee on National Cohesion & Equal Opportunity – 22.11.2016)

Debate interrupted on Tuesday, November 22, 2016 resumed;

Mover replied;

Question deferred to another day

15. **THE LAND VALUE INDEX LAWS (AMENDMENT) BILL (NATIONAL ASSEMBLY BILL NO. 40 OF 2016)**

Order deferred

16. **THE NATIONAL HONOURS (AMENDMENT) BILL (SENATE BILL NO.16 OF 2014)**

Order deferred

17. **MOTION – ADOPTION OF THE REPORT ON THE INVESTIGATION INTO WILDLIFE POACHING IN KENYA**

Order deferred

18. **MOTION – ADOPTION OF THE REPORT ON THE INVESTIGATION INTO THE GARISSA UNIVERSITY COLLEGE TERRORIST ATTACK**

Order deferred

19. **MOTION – ADOPTION OF REPORT ON THE INQUIRY INTO THE PROCUREMENT OF THE APRON BUSES BY THE KENYA AIRPORTS AUTHORITY**

Order deferred

20. MOTION – ADOPTION OF THE REPORT ON THE INQUIRY INTO THE IMPORTATION OF FERTILIZER BY THE MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES THROUGH THE NATIONAL CEREALS AND PRODUCE BOARD

Order deferred

21. MOTION – ADOPTION OF THE REPORT ON THE INQUIRY INTO DEGAZZETEMENT OF GOVERNMENT LAND BELONGING TO CHORLIM COOPERATIVE SOCIETY

Order deferred

And the time being nineteen minutes to Six O'clock, the Second Chairperson interrupted the proceedings and adjourned the House without Question put pursuant to the Standing Orders.

22. HOUSE ROSE - at nineteen minutes to Six O'clock

MEMORANDUM

The Speaker will take the Chair on
Thursday, November 24, 2016 at 2.30 p.m.

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